

Environmental Protection Agency

§ 205.159

Malagati	MAL
Morini	MOI
Motobecane/Solex	MBE
Moto Guzzi	GUZ
Negrini	NEG
Odyssey	ODY
Pacer	PAC
Pack-A-Way	PAK
Peugeot	PEU
Puch	PUC
Riviera	RIV
Sachs	SAC
Safari	SAF
Scorpion	SCO
Smily	SMI
Snark	SNA
Sori II	SON
Speed Bird	SPE
Sprinter	SPR
SuVega	SUV
Tomas	TOM
Vaespa	VES
Yankee Peddler	YAN

(9) If a new motorcycle manufacturer begins production of vehicles subject to this regulation, the Administrator will assign him a 3-letter manufacturer abbreviation as soon as reasonably practical after his existence is known to the Agency.

(b) Any vehicle manufactured in the United States solely for use outside the United States must be clearly labeled in accordance with the provisions of paragraphs (a) (2), (3), and (4) of this section with the statement; "For Export Only".

(c) Any competition motorcycle as defined in §205.151(a)(3), shall be labeled in accordance with the provisions of paragraphs (a)(1), (2), (3) and (4) of this section with the statement:

This motorcycle is designed for closed course competition use only. It does not conform to U.S. EPA motorcycle noise standards.

(d) It will be permissible for manufacturers to meet the requirements of this section by consolidating these labeling requirements with other government labeling requirements in one or more labels, provided the provisions of paragraphs (a) (2), (3) and (4) of this section are met.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

§ 205.159 Testing by the Administrator.

(a)(1) In order for the Administrator to determine whether such vehicles or a manufacturer's test facility conform to applicable regulations, the Administrator may require that vehicles to be

tested pursuant to the Act be submitted to him, at such place and time as he reasonably designates. He may designate the quantity of vehicles and the duration of time he reasonably requires for the purpose of conducting tests in accordance with test procedures described in appendix I. The manner in which the Administrator conducts such tests, the EPA test facility, and the test procedures employed will be based upon good engineering practice and meet or exceed the requirements of appendix I of the regulations.

(2) If the Administrator specifies that he will conduct such testing at the manufacturer's facility, the manufacturer shall make available instrumentation and equipment of the type required for test operations by these regulations. The Administrator may conduct such tests with his own equipment, having specifications equal to or exceeding the performance specifications of the instrumentation and equipment required in these regulations.

(3) The manufacturer may observe tests conducted by the Administrator pursuant to this section on vehicles produced by the manufacturer and may copy the data accumulated from such tests. The manufacturer may inspect any of the vehicles before and after testing by the Administrator.

(b)(1) If, based on tests conducted by the Administrator, or on other relevant information, the Administrator determines that the test facility does not meet the requirements of appendix I (or the requirements for an alternative test procedure approved under §205.154), the Administrator will give notice to the manufacturer in writing of his determination and the reasons underlying it.

(2) The manufacturer may, at any time within 15 days after receipt of a notice issued under paragraph (b)(1) of this section, request a hearing conducted in accordance with 5 U.S.C. 554 on the issue of whether his test facility met the requirements as specified in appendix I (or the alternative procedure). Such notice will not take effect until 15 days after its receipt by the manufacturer or, if a hearing is requested under this paragraph, until adjudication by the Administrative law judge.

§ 205.160

40 CFR Ch. I (7–1–10 Edition)

(3) After any notice issued under paragraph (b)(1) of this section has taken effect, no data thereafter derived from that test facility will be acceptable for purposes of this subpart.

(4) The manufacturer may request in writing that the Administrator reconsider his determination under paragraph (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and that those changes have resolved the reasons for disqualification.

(5) Within 10 working days after receipt of the manufacturer's request for reconsideration pursuant to paragraph (b)(4) of this section, the Administrator will notify the manufacturer of his determination and of the reasons underlying it with regard to the requalification of the test facility.

(c) The Administrator will assume all reasonable costs associated with shipment of vehicles to the place designated pursuant to paragraph (a) of this section except with respect to:

(1) Any production verification testing performed at a place other than the manufacturer's facility as provided in § 205.157–2(a), or as a result of the manufacturer's not owning or having access to a test facility;

(2) Testing of a reasonable number of vehicles (i) for purposes of selective enforcement auditing under § 205.160, (ii) or if the manufacturer has failed to establish that there is a correlation between its test facility and the EPA test facility, (iii) or the Administrator has reason to believe, and provides the manufacturer with a statement of such reason, that the vehicles to be tested would fail to meet the standard prescribed in this subpart if tested at the EPA test facility even though they would meet such standard if tested at the manufacturer's test facility;

(3) Any testing performed during a period when a notice issued pursuant to paragraph (b) of this section is in effect;

(4) Any testing performed at a place other than the manufacturer's facility as a result of the manufacturer's failure to permit the Administrator to conduct or monitor testing as required by this subpart; and

(5) Testing of up to 10 percent of the manufacturer's test vehicles for a model year if the Administrator determines testing these vehicles at the EPA test site is necessary to assure that a manufacturer has acted or is acting in compliance with the Act.

[45 FR 86708, Dec. 31, 1980, as amended at 47 FR 57721, Dec. 28, 1982]

§ 205.160 Selective enforcement auditing (SEA) requirements.

§ 205.160–1 Test request.

(a) The Administrator will request all testing under § 205.160 by means of a test request addressed to the manufacturer.

(b) The test request will be signed by the Assistant Administrator for Enforcement or his designee. The test request will be delivered to the plant manager or other responsible official as designated by the manufacturer.

(c) The test request will specify the vehicle category, configuration or configuration subgroup selected for testing, the manufacturer's plant or storage facility from which the vehicles must be selected, and the time at which the vehicles must be selected. The test request will also provide for situations in which the selected category, configuration, or configuration subgroup is unavailable for testing. The test request may include an alternative category, configuration, or configuration subgroup designated for testing in the event that vehicles of the first specified category, configuration, or configuration subgroup are not available for testing because the vehicles are not being manufactured at the specified plant, are not being manufactured during the specified time, or are not being stored at the specified plant or storage facility.

(d)(1) If the manufacturer projects a yearly production of fewer than 50 vehicles of the specified category, configuration or configuration subgroup to be tested, then within five (5) days of receipt of the request, the manufacturer must notify the Administrator of such low volume production. The Administrator will then provide a revised test request specifying a testing plan which imposes no greater risk of failure (5%) at the acceptable quality level